BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

JOHN R. SMITH APPELLANT, v. HOLT COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 25R 0248 DECISION AND ORDER AFFIRMING THE DECISION OF THE HOLT COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Holt County, parcel number 450022061.
2. The Holt County Assessor (the County Assessor) assessed the Subject Property at $67,993 for tax year 2025.
3. John R. Smith (the Taxpayer) protested this value to the Holt County Board of Equalization (the County Board) and requested an assessed value of $62,899 for tax year 2025.
4. The County Board determined that the taxable value of the Subject Property was $67,993 for tax year 2025.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on July 16, 2026, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, NE, before Commissioner James D. Kuhn.
7. John R. Smith was present at the hearing for the Taxpayer.
8. Tim Wallinger (the Assessor) was present for the County Board.

II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.[1]
10. The Commission's review of a determination of the County Board of Equalization is de novo.[2]
11. When the Commission considers an appeal of a decision of a county board of equalization, there are two burdens of proof.[3]
12. The first involves a presumption that the board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action.[4] That presumption remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary.[5]
13. The second burden of proof requires that from that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented.[6] The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.[7]

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[1] Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2024).
[2] See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).
[3] *Pinnacle Enters., Inc. v. Sarpy Cty. Bd. of Equalization*, 320 Neb. 303, 309, 27 N.W.3d 1, 6 (2025). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 654-55, 437 N.W.2d 501, 502 (1989)).
[4] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6 (quoting *Cain v. Custer Cty. Bd. of Equal.*, 315 Neb. 809, 818, 1 N.W.3d 512, 521 (2024)). See also *Brenner*, 276 Neb. at 283, 753 N.W.2d at 811 (quoting *Ideal Basic Indus.*, 231 Neb. at 654-55, 437 N.W.2d at 502).
[5] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6.
[6] *Id.* See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.
[7] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6. See also *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

14. The order, decision, determination, or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.[8] Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.[9]
15. The Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[10] The County Board need not put on any evidence to support its valuation of the property at issue unless the Taxpayer establishes that the County Board's valuation was unreasonable or arbitrary.[11]
16. In an appeal, the Commission may determine any question raised in the proceeding upon which an order, decision, determination, or action appealed from is based.[12] The Commission may consider all questions necessary to determine taxable value of property as it hears an appeal or cross appeal.[13] The Commission may take notice of judicially cognizable facts, may take notice of general, technical, or scientific facts within its specialized knowledge, and may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.[14] The Commission's Decision and Order shall include findings of fact and conclusions of law.[15]

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[8] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).
[9] *Pinnacle Enters.*, 320 Neb. at 309, 27 N.W.3d at 6; *Omaha Country Club v. Douglas County Bd. of Equal.,* 11 Neb. App. 171, 645 N.W.2d 821 (2002).
[10] Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value) *abrogated on other grounds by Potts v. Bd. of Equalization*, 213 Neb. 37, 328 N.W.2d 175 (1982)); *Lincoln Tel. and Tel. Co. v. County Bd. of Equal. of York County,* 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).
[11] *Wheatland Indus., LLC v. Perkins Cty. Bd. of Equalization*, 304 Neb. 638, 935 N.W.2d 764 (2019) (quoting *Bottorf v. Clay Cty. Bd. of Equal.*, 7 Neb. App. 162, 168, 580 N.W.2d 561, 566 (1998)).
[12] Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).
[13] *Id.*
[14] Neb. Rev. Stat. § 77-5016(6) (Reissue 2018).
[15] Neb. Rev. Stat. § 77-5018(1) (Cum. Supp. 2024).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The Subject Property is a two-story, single-family home built in 1925 with a total living area of 1,786 square feet.
18. The Taxpayer stated he has lost quiet enjoyment of the Subject Property due to the public library next door having installed new HVAC units that emit 70 to 85 dB of audible noise. The Taxpayer opined that some of the noise is inaudible ultralow frequency sound that can't be heard but physically felt.
19. The Taxpayer stated the public library installed security perimeter lighting that impacts the SW upstairs bedroom, making the room impossible to sleep in.
20. The Taxpayer stated the house next door also has HVAC machines and security perimeter lighting that emit sound and bright lighting that illuminates the basement, main floor and second floor of the Subject Property, even with blinds closed.
21. The Taxpayer opined that the street in front of the Subject Property (Douglas Street), is very busy with frequent large vehicles and equipment travelling, causing noise and safety concerns. The Taxpayer stated non-structural cracks in the walls have developed within the last 15 to 20 years due to the vibrations caused by the heavy payloads and large equipment travelling on Douglas Street.
22. The Taxpayer stated there are dilapidated structures close to the Subject Property which would affect the Subject Property's value.
23. The Assessor provided the property record files (PRF) for the Subject Property and ten properties that have sold on Douglas Street. The Assessor stated although Douglas Street is a busy main thoroughfare, he has not seen any decline in sales prices for those homes.
24. The Assessor stated he gave the Subject Property a 45% economic depreciation for old plumbing and electric that would

need to be replaced should the Taxpayer decide to sell the Subject Property.

25. The Taxpayer did not present information to quantify the effects of the noise and lighting discussed at hearing on the Subject Property's value.
26. A determination of actual value may be made by using professionally accepted mass appraisal methods.[16] The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.[17] None of these approaches were provided by the Taxpayer to suggest a value other than the current assessment for the 2025 tax year.
27. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
28. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2025 is affirmed.
2. The taxable value of the Subject Property for tax year 2025 is:

Total	**$67,993**

3. This Decision and Order, if no further action is taken, shall be certified to the Holt County Treasurer and the Holt County Assessor, pursuant to Neb. Rev. Stat. § 77-5018.

[16] Neb. Rev. Stat. § 77-112 (Reissue 2018).
[17] *Id.*

4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2025.
7. This Decision and Order is effective on October 30, 2026.

SIGNED AND SEALED: October 22, 2026.

SEAL



James D. Kuhn, Commissioner